

(Translation from French)

- Article 12 of the Law of 13 November 2014 supplemented the provisions of the Law of 21 June 2004 on confidence in the digital economy, with an article which provides for the possibility of the administrative authority to ask internet service providers to block access to sites inciting or glorifying terrorism, **as is already the case in Article 4 of the law, with regard to child pornography sites.**

- It should be recalled in this regard that, in its Decision No. 3011-625 DC of 10 March 2011, **the Constitutional Council assessed such an administrative procedure for blocking child pornography sites as being in conformity with the French Constitution, and in particular with the freedom of opinion and expression, given its proportionality, and the nature of its object.** It had indeed considered that the provisions in question of the 2004 Act only conferred on the administrative authority the power to restrict, for the protection of internet users, access to online communication services to the extent that they disseminate child pornography images; that the decision of the administrative authority **could be challenged at any time in the competent court**, and if appropriate in chambers by anyone interested. The Constitutional Council concluded that in these circumstances, that this legislation was a **proportionate solution**, ensuring the equilibrium between the constitutional objective of safeguarding public order and freedom of communication of thoughts and opinions guaranteed by the Article 11 of the Declaration of the Rights of Man and of the Citizen of 1789.

- The new procedure for blocking websites inciting or glorifying terrorism fits into the same framework. **The blocking procedure allows for a first preliminary phase.** In a first stage, the administrative authority requests content providers and hosting services to remove the illegal content and informs the Internet service providers of this request. If the content is not removed within 24 hours, the administrative authority notifies to the service providers the list of offending Internet addresses to be blocked immediately.

- In parallel, the administrative authority transmits the withdrawal requests and the list of blocked Internet addresses to a **qualified personality designated by the National Commission on Informatics and Liberty**, who ensures the conformity of these withdrawal requests as well as the terms of establishing, updating, communicating and using the blocking list. If it finds an irregularity, it may at any time recommend to the administrative authority to end it. If the administrative authority does not follow the recommendation, the **qualified personality may apply to the competent administrative court**, if necessary in Chambers. Finally, it should be noted that, under Law No. 2014-1353, the qualified personality designated by the National Commission on Informatics and Liberty publishes an annual progress report on the conditions of exercise and results of his/her activity, notably specifying the number of withdrawal applications, removed content, the reasons for withdrawal and the number of recommendations made to the administrative authority. This report is submitted to the Government and Parliament.

- It follows from the above that **Article 12 of the Law of 13 November 2014 is consistent with the international commitments of France**, and in particular with Article 19 of the

Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as Article 10 of the European Convention on Human Rights, which provides that "The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others ...".

Moreover, in the spirit of General Comment No. 34 of the Committee of Human Rights and the jurisprudence of the European Court of Human Rights, blocking sites is carried out in compliance with the principles of necessity, proportionality and transparency.

France therefore respects freedom of expression and applies it in the real world as the Internet.